



April 28, 2004

Dan McDonald, Admin.  
Child Support Enforcement  
Department of Finance and Administration  
P.O. Box 8133  
Little Rock, AR 72203

Re: Advisory Opinion #483-04-04

Dear Mr. McDonald:

This letter is in response to your request for an advisory opinion in accordance with §19-11-715(b) of the Arkansas Code annotated of 1987. Your request for an advisory opinion is based on the following facts:

- a) LeAnn Rollans, an employee of Protech Solutions, Inc. was hired by your organization and now seeks to cease her employment with the state and go to work again for Protech Solutions, Inc.
- b) During the period of time that Ms. Rollans worked for CSEU, Protech Solutions was performing a contract for your agency and will continue that same contract.
- c) Ms. Rollans "duties at Protech would consist of proposal writing, proof of concept projects, demonstrations of projects and products to potential customers, and other related marketing, sales and pre-sales activities. She would not work on any project that is being executed for the State of Arkansas, or be involved in any marketing or pre-sales for any project that Protech is executing or intends to execute for the State of Arkansas for at least one year after her employment with Protech began".
- d) You are requesting an advisory opinion to determine what, if any, activities Ms. Rollans may perform for Protech Solutions, Inc.

Arkansas Code Annotated §19-11-709(d)(1) prohibits "former employees" from engaging "in selling or attempting to sell commodities or services, including technical or professional consultant services, to the state for one (1) year following the date employment ceased". The term sell as used in this subsection means "signing a bid, proposal, or contract; negotiating a contract; contacting any employee for the purpose of obtaining, negotiating, or discussing changes in specifications, price, cost allowances, or other terms of a contract; settling disputes concerning performance of a contract; or any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract therefor is subsequently negotiated by another person".

The activities that you have described as those, which will be performed by her, do not seem to be within the definition of “selling”. However, it is incumbent upon Ms. Rollans to insure that her actions do not violate the statutory restrictions. ACA §19-11-713 describes civil and administrative remedies against nonemployees who breach ethical standards.

This advisory opinion is issued in accordance with Arkansas Code Annotated §19-11-715(b) and compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Act and EO 98-04.

Sincerely,

Richard A. Weiss  
Director

cc: Joe Giddis  
Tom Gay, Office of Atty. Gen.